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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/771,467	12/20/96	VAN VORIS	BTCL:025

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EXAMINER

LEVY, N

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 03/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

08 771467

Applicant(s)

VAN KORIS & CO

Examiner

NEC Com

Group Art Unit

1616

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

1/22/01

- ☒ Responsive to communication(s) filed on _____
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-4, 6-15, 30-62 is/are pending in the application.
- Of the above claim(s) 10, 12-14 & 42 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-4, 6-11, 30-41 & 43-62 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4, 2023
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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Receipt is acknowledged of IDS, change of address, art, request for time, amendment and election and revocation of attorney.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's election without traverse of Group I, Matrices in Paper No. 18 ½ is acknowledged.

Claims 42, 10, 12-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 18 ½.

Claims 1-4, 6-11, 30-41, 43 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Critical components are not found, nor claimed, to provide one of ordinary skill in the art of making pesticidal matrices sufficient guidance to determine what and how much, of each of the pesticide and carrier is required to constitute a sufficient amount to reduce (no quantification of to what extent) the release rate. Neither is a "forming zone" disclosed. There's insufficient claim language, and disclosures, to identify the encapsulation process. The pre-polymer should be claimed.

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Claims 3, 9, 52, 60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Abbreviations need to be spelled out at first occurrence in claims. "Low" and "high" density polymer "is indefinite my lar" is a trade name, and should be generically identified.

Claims 1-4, 6-9, 11, 30, 31, 33-39, 41, 43, 44, 46, 51, 52, 54, 57, 58, 60 and 62 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Zimmerman-5139566.

The rejection of record is maintained. See example; in fact carbon black or fillers (Col 3, lines 42, 43) constitute a carrier mixed, as with the polyethylene discussed at Col 4, line 15+, followed by injection molding and solidification of the matrix encapsulated, pelleted, in the polymer, polypropylene, (Col 3, lines 23-24, sheet or web. The instant hydrophobic polymers are user (Col 3, line 39) so, inherently, is the MLB and release rate. Release rate is sufficient to be effective for 100 years (Col 3, lines 49-55).

Claims 1-4, 6-8, 11, 31-33, 35, 36, 41, 44, 46, 48, 54, 57, 58 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pasarela-4343790 in view of Cannelongo- 5650163.

Pasarela: See Col 3 a matrix/device, with reduced hazard (Col 1, lines 35-41) formed by mixing liquid pesticide/insecticides (Col 1, lines 11-17) with solid carrier-talc, and diatomaceous earth. However, Pasarela does not disclose moving the carrier/pesticide to a forming zone.

Cannelongo does (flow diagram) Cannelongo also uses the Pasarela toxic pesticides (Col 4, lines

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20-38) and provides matrices of formable resin (extrudable; pelletized Col 3, bottom) or strips, granules (Col 5, lines 50-65) The release rate is controllable (col 3, lines 50-53).

The primary reference teaches, the essence of the instant invention as claimed, but does not specify, each and every element of the instantly claimed methods. However, the secondary references directed at the similar same methods and compositions to solve the same problems of the primary reference do provide these additional elements.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made, desiring to utilize a safer insecticide, to use one of Pasarela, prepared in the form desired, as shown usefully Cannelongo.

There is no non obvious and/pr unexpected results obtained since the prior art is well aware o the methods of preparing pesticide delivery devices; the method steps and processing equipment are well known and art recognized procedures as are the ingredients used and the functionality for which they are known to be used is not a basis for patentability. The selection of active is a result effective parameter determinable be artisan as desired for purposes of treating specific pests.

All the critical elements of the instant invention are disclosed.

Claims 1-4, 6-11, 15, ^{30-41, 43-62}~~30-62~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Pasarela in view of Cannelongo as applied to claim 1-4, 6-8, 11, 31-33, 35, 36, 41, 43, 44, 46, 54, 57, 58 and 62 above, and further in view of chemical level, Falstrom, Sjorn, and Zimmerman.

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The primary references teach the instant methods, using organophosphates, while added references, discussed in prior office actions, all directed to insect control, show the variations of the dependant claims of the instant invention to be known.

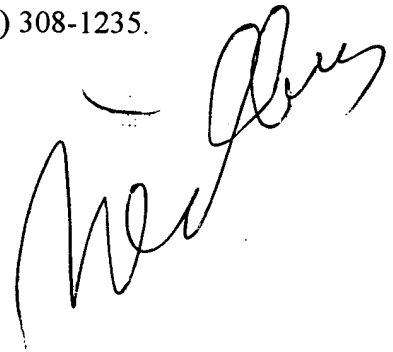
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. The examiner can normally be reached on Tuesday-Friday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached on (703) 308-5628. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy:mv

February 22, 2001

A handwritten signature in black ink, appearing to read "Neil S. Levy", is written over the typed name and title.

NEIL S. LEVY
PRIMARY EXAMINER